



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

201343030

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

JUL 31 2013

Uniform Issue List: 408.03-00

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Legend:

Taxpayer A =

IRA B =

Bank C =

Bank D =

Account E =

Amount 1 =

Amount 2 =

Amount 3 =

Dear:

This letter is in response to your request dated March 6, 2013 and supplemented by letter dated June 19, 2013, from your authorized representative, in which you request a waiver of the 60-day rollover requirement contained in section 408(d)(3) of the Internal Revenue Code ("Code").

The following facts and representations have been submitted under penalty of perjury in support of the ruling requested.

Taxpayer A represents that he intended to withdraw Amount 2, his required minimum distribution for 20 , from IRA B. Instead Taxpayer A withdrew Amount 1, the entire account balance in IRA B. Taxpayer A asserts that his unintentional withdrawal of the account balance as well as his failure to accomplish a rollover of Amount 3 (the difference between Amount 1 and Amount 2) within the 60-day period prescribed by Code section 408(d)(3) was due to a diagnosed progressive medical condition.

Taxpayer A represents that he owned IRA B which was maintained with Bank C. On June 22, 20 , Taxpayer A went to Bank C intending to withdraw Amount 2, his required minimum distribution from IRA B for 20 . Taxpayer A further represents that as a result of his medical condition he instead withdrew Amount 1, the entire balance, from IRA B. A cashier's check of Amount 1 was issued to Taxpayer A and a representative of Bank C informed Taxpayer A that he had 60 days to rollover the distribution of Amount 3. Taxpayer A indicated that he was moving out of state and would deposit the funds there. However, on the same day as the withdrawal, Taxpayer A deposited Amount 1 in Account E, a savings account of Taxpayer A and his wife, maintained in Bank D. Amount 1 remains intact in Account E. Taxpayer A also represents that the cashier's check from Bank C did not state that the distribution was from an IRA and that the employee of Bank D who handled the deposit did not question the transaction.

Taxpayer A has submitted documentation, including a letter from his doctor that Taxpayer A was suffering from a progressive mental condition at the time of the withdrawal on June 22, 20 . A letter from a representative of Bank D also states that they were aware of Taxpayer A's mental condition at the time Amount 1 was deposited in Account E.

Based on the above facts and representations, you request that the Internal Revenue Service ("Service") waive the 60-day rollover requirement contained in section 408(d)(3) of the Code with respect to the distribution of Amount 2.

Section 408(d)(1) of the Code provides that, except as otherwise provided in section 408(d) of the Code, any amount paid or distributed out of an IRA shall be included in gross income by the payee or distributee, as the case may be, in the manner provided under section 72 of the Code.

Section 408(d)(3) of the Code defines, and provides the rules applicable to IRA rollovers.

Section 408(d)(3)(A) of the Code provides that section 408(d)(1) of the Code does not apply to any amount paid or distributed out of an IRA to the individual for whose benefit the IRA is maintained if -

(i) the entire amount received (including money and any other property) is paid into an IRA for the benefit of such individual not later than the 60th day after the day on which the individual receives the payment or distribution; or

(ii) the entire amount received (including money and any other property) is paid into an eligible retirement plan (other than an IRA) for the benefit of such individual not later than the 60th day after the date on which the payment or distribution is received, except that the maximum amount which may be paid into such plan may not exceed the portion of the amount received which is includible in gross income (determined without regard to section 408(d)(3)).

Section 408(d)(3)(B) of the Code provides that section 408(d)(3) does not apply to any amount described in section 408(d)(3)(A)(i) received by an individual from an IRA if at any time during the 1-year period ending on the day of such receipt such individual received any other amount described in section 408(d)(3)(A)(i) from an IRA which was not includible in gross income because of the application of section 408(d)(3).

Section 408(d)(3)(D) of the Code provides a similar 60-day rollover period for partial rollovers.

Section 408(d)(3)(E) of the Code provides that the rollover provisions of section 408(d) do not apply to any amount required to be distributed under section 408(a)(6).

Section 408(d)(3)(I) of the Code provides that the Secretary may waive the 60-day requirement under sections 408(d)(3)(A) and 408(d)(3)(D) of the Code where the failure to waive such requirement would be against equity or good conscience, including casualty, disaster, or other events beyond the reasonable control of the individual subject to such requirement. Only distributions that occurred after December 31, 2001, are eligible for the waiver under section 408(d)(3)(I) of the Code.

Rev. Proc. 2003-16, 2003-4 I.R.B. 359 (January 27, 2003) provides that in determining whether to grant a waiver of the 60-day rollover requirement pursuant to sections 408(d)(3)(I), the Service will consider all relevant facts and circumstances, including: (1) errors committed by a financial institution; (2) inability to complete a rollover due to death, disability, hospitalization, incarceration, restrictions imposed by a foreign country or postal error; (3) the use of the amount distributed (for example, in the case of payment by check, whether the check was cashed); and (4) the time elapsed since the distribution occurred.

The information presented and the documentation submitted by Taxpayer A is consistent with his assertion that his failure to accomplish a timely rollover of Amount 3 was due to a diagnosed progressive medical condition.

Therefore, pursuant to section 408(d)(3)(I) of the Code, the Service hereby waives the 60-day rollover requirement with respect to the distribution of Amount 3 from IRA B. Taxpayer A is granted a period of 60 days from the issuance of this

letter ruling to contribute Amount 3 into a rollover IRA. Provided all other requirements of section 408(d)(3) of the Code, except the 60-day requirement, are met with respect to such contribution, the contribution will be considered a rollover contribution within the meaning of section 408(d)(3).

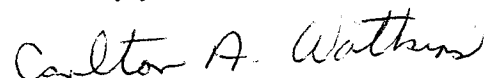
This ruling does not authorize the rollover of amounts that are required to be distributed by section 401(a)(9) of the Code.

No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations which may be applicable thereto.

This letter is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

A copy of this letter ruling has been sent to your authorized representative pursuant to a power of attorney on file in this office. If you wish to inquire about this ruling, please contact ***** (I.D. #*****) at (***) ***-****. Please address all correspondence to SE:T:EP:RA:T1

Sincerely yours,



Carlton A. Watkins, Manager
Employee Plans Technical Group 1

Enclosures:

Deleted Copy of this Letter Ruling
Notice of Intention to Disclose, Notice 437

cc: